

February 25, 2003

Exemption No. 7985
Regulatory Docket No. FAA-2003-14279

Mr. Brian Burgess
Director of Maintenance
South Aero, Inc.
P.O. Box 9175
Albuquerque, NM 87119

Dear Mr. Burgess:

By letter dated January 14, 2003, you petitioned the Federal Aviation Administration (FAA) on behalf of South Aero, Inc. (South Aero), for an exemption from § 135.143(c)(2) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to permit South Aero to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

The FAA issued a grant of exemption in circumstances similar in all material respects to those presented in your petition. In Grant of Exemption No. 7776 (copy enclosed), the FAA found that although the ground sensors necessary for Mode S transponders are in place, the FAA is reconsidering the comments submitted in response to Notice No. 96-5, and its position on Mode S equipage requirements in relation to the current aviation environment. In May 1996, the FAA proposed to rescind the Mode S transponder requirement for all aircraft operations under part 135 and for certain aircraft operations under 14 CFR part 121 that are not required to have Traffic Alert and Collision Avoidance System (TCAS) II (61 FR 26036). Further, the FAA found that the public interest would not be served by compelling certain individuals to purchase and install Mode S transponders.

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented by the petitioner in the enclosed grant of exemption. In addition, I have determined that the reasons stated by the FAA for granting the enclosed exemption also apply to the situation you present.

AFS-03-200

In response to your request for a permanent exemption, I find that it is in the public interest to require the petitioner to show continued justification and for the FAA to review regularly

the appropriateness of an exemption from safety regulations. Therefore, a permanent exemption will not be granted.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701 delegated to me by the Administrator, South Aero, Inc., is granted an exemption from 14 CFR § 135.143(c)(2) to the extent necessary to operate certain aircraft, subject to the following conditions and limitations:

1. Any aircraft listed on South Aero's part 135 operations specifications at the date of issuance of this exemption may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder.
2. Any other aircraft for which installation of a transponder is needed may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder, provided notice is given to South Aero's principal operations inspector.

Please note that in an effort to allow the public to participate in tracking the FAA's rulemaking activities, we have transitioned to the Department of Transportation's online Docket Management System (DMS) at <http://dms.dot.gov>. This new docket system enables interested persons to submit requests to, view requests on, and download requests from the DMS to comply with 14 CFR § 11.63. Please submit future requests through the DMS.

This exemption terminates on February 28, 2005, unless sooner superseded or rescinded.

Sincerely,

/s/

Anthony F. Fazio
Director, Office of Rulemaking

Enclosure